

1 DANIEL L. WARSHAW (Bar No. 185365)
dwarshaw@pswlaw.com

2 **PEARSON, SIMON & WARSHAW, LLP**
15165 Ventura Boulevard, Suite 400
3 Sherman Oaks, California 91403
Telephone: (818) 788-8300
4 Facsimile: (818) 788-8104

5 MELISSA S. WEINER (to be admitted *pro hac vice*)
mweiner@pswlaw.com

6 **PEARSON, SIMON & WARSHAW, LLP**
800 LaSalle Avenue, Suite 2150
7 Minneapolis, Minnesota 55402
Telephone: (612) 389-0600
8 Facsimile: (612) 389-0610

9 JEFFREY KALIEL (Bar No. 238293)
jkaliel@kaliellpc.com

10 SOPHIA GOLD (Bar No. 307971)
sgold@kaliellpc.com

11 **KALIEL PLLC**
1875 Connecticut Ave. NW, 10th Floor
12 Washington, D.C. 20009
Telephone: (202) 350-4783
13 Facsimile: (202) 871-8180

14 [Additional Counsel on Signature Page]

15 *Attorneys for Plaintiff*

16

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

19

20 R.A., a minor, by and through his
Guardian, Steve Altes, on behalf of
21 himself and all others similarly situated,

22 Plaintiff,

23 vs.

24 Epic Games, Inc.,

25 Defendant.

26

27

28

CASE NO. 2:19-cv-1488

CLASS ACTION

COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff R.A., by and through his Guardian, Steve Altes (“Plaintiff”), brings
2 this action individually and on behalf of a Class of all those similarly situated for
3 damages and injunctive relief against Defendant Epic Games, Inc. (“Defendant” or
4 “Epic”), and alleges the following based on the investigation of counsel and based
5 on information and belief.

6 **INTRODUCTION**

7 1. Rising to the forefront in a multi-billion-dollar video game industry,
8 Epic has perfected a predatory scheme whereby it exploits players, including
9 minors, by inducing them to purchase in-game loot boxes in the pursuit of the best
10 in-game item schematics, heroes, and survivors (collectively, “loot”).

11 2. As part of its scheme, Epic offers Fortnite Save the World at a lower
12 price point than competitor video games to entice players to start playing its game,
13 with the goal of luring those players to make in-game microtransactions that
14 generate significant revenue for Epic.

15 3. Because Fortnite Save the World’s game progression is inextricably
16 linked to loot progression, players are pushed to keep seeking better loot to progress
17 in the game.

18 4. Accordingly, Epic designed Fortnite Save the World to effectively limit
19 a player’s ability to progress within the game without spending money on loot
20 boxes.

21 5. The scheme plays out perfectly to the benefit of Epic: once players are
22 sufficiently invested in the game, Epic induces players to purchase loot boxes in
23 order to get better loot, which results in massive revenue to Epic.

24 6. Epic has made a fortune on in-game purchases, preying in large part on
25 minors who are especially susceptible to such predatory tactics.

26 7. However, many of these in-game purchases are marketed through
27 material misrepresentations and omissions which lure minors and other players into
28 making repeated purchases, without receiving the promised loot.

1 8. Specifically, in Fortnite Save the World, Defendant entices minors and
 2 others into purchasing “loot boxes,” known as “Llamas,” using unfair and deceptive
 3 marketing. Llamas are purchased with V-Bucks¹. Purchasing a Llama is like
 4 playing a slot machine. Llamas contain “randomized” loot for use in the Fortnite
 5 game. Players, and particularly minors, are lured into purchasing Llamas with the
 6 reasonable expectation that a purchase will result in better loot. Players are
 7 encouraged to keep purchasing Llamas with the reasonable belief that repeated
 8 purchase will lead to the chance of receiving better loot and therefore improvement
 9 in performance of the game. Through both express misrepresentations and
 10 omissions, Epic markets Llamas as highly likely to contain valuable loot that will
 11 increase a player’s power and prowess in the Fortnite game. But in reality, Llamas
 12 do not contain the loot expected by the reasonable consumer.

13 9. Only Epic knows the odds of receiving any given loot in a Llama, and
 14 it exploits this informational advantage mercilessly to lure minors and other
 15 purchasers into making purchases they otherwise would not make.

16 10. Epic systematically advertises Llamas with promises that they will
 17 contain appealing and valuable loot. Like with a slot machine, Epic psychologically
 18 manipulates its young players into thinking they will “get lucky.” But what Epic
 19 knows—and what its young players do not know—is that the Llamas almost never
 20 contain what they are touted as containing.

21 The reasonable consumer purchasing Llamas believes that he or she will have
 22 significantly better chances of receiving valuable loot than they actually do.

23 11. Worse yet, Epic fails to disclose that the odds of receiving the valuable
 24 loot are next to nothing.

25 _____
 26 ¹ As alleged herein, rather than using dollars, Epic created a proprietary currency
 27 within the Fortnite universe called V-Bucks. Players purchase V-Bucks with real
 28 money.

12. Plaintiff, like hundreds of thousands of consumers, fell for Epic's deceptive sales practices and purchased Epic's Llamas hoping for rare and powerful loot. Plaintiff did not receive that desired loot and never had a realistic chance of doing so.

13. Epic's prominent display of the most valuable (and exceedingly rare) loot in every Llama, coupled with its failure to disclose the odds of winning the most valuable loot, constitute deceptive and misleading representations that deceive consumers into purchasing Llamas based on their reasonable reliance on Epic's representations.

14. Had Plaintiff known the odds of receiving the desired loot in Llamas were virtually nil, he would not have purchased them.

15. Plaintiff and the Class members have been injured by Epic's practices. Plaintiff brings this action on behalf of himself and the putative Class. Plaintiff seeks actual damages, punitive damages, restitution, and an injunction to prevent Epic from continuing to engage in the illegal practices described herein.

JURISDICTION AND VENUE

16. This Court has original jurisdiction of this action under the Class Action Fairness Act of 2005. Pursuant to 28 U.S.C. §§ 1332(d)(2) and (6), this Court has original jurisdiction because the aggregate claims of the putative class members exceed \$5 million, exclusive of interest and costs, and at least one of the members of the proposed classes is a citizen of a different state than Defendant.

17. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because Defendant is subject to personal jurisdiction here and regularly conducts business in this District, and because the events giving rise to Plaintiff's claims occurred in this District.

///

///

///

PARTIES

18. Guardian Steve Altes is a citizen and resident of Valencia, California. He resides with his son, Plaintiff R.A. Plaintiff R.A. was at all relevant times a Fortnite player and a minor.

19. Plaintiff R.A. plays Fortnite Save the World.

20. Plaintiff R.A. used his own money and his parents' money to purchase Upgrade Llamas and Daily Llamas in Fortnite Save the World.

21. Plaintiff R.A. believed that he had a meaningful chance of receiving the loot represented by Epic as being in the loot boxes.

22. Had Plaintiff R.A. known the extremely low chances he had to receive the loot he wanted, he would not have purchased the Llamas.

23. Since discovering Epic's material misrepresentation and omissions, Plaintiff R.A. has ceased to purchase any further Llamas from Epic. However, if Epic changed its practices so as to comply with the law, Plaintiff R.A. would consider purchasing Llamas in the future.

24. Defendant Epic Games Inc. is a video game company based in North Carolina. Defendant released Fortnite Save the World and Fortnite Battle Royale in 2017. Both game "modes" are part of the same Fortnite game, and both are immensely popular. As of January 2019, there are an estimated 200 million Fortnite players worldwide. Epic made an estimated \$2.4 billion dollars on Fortnite in 2018.

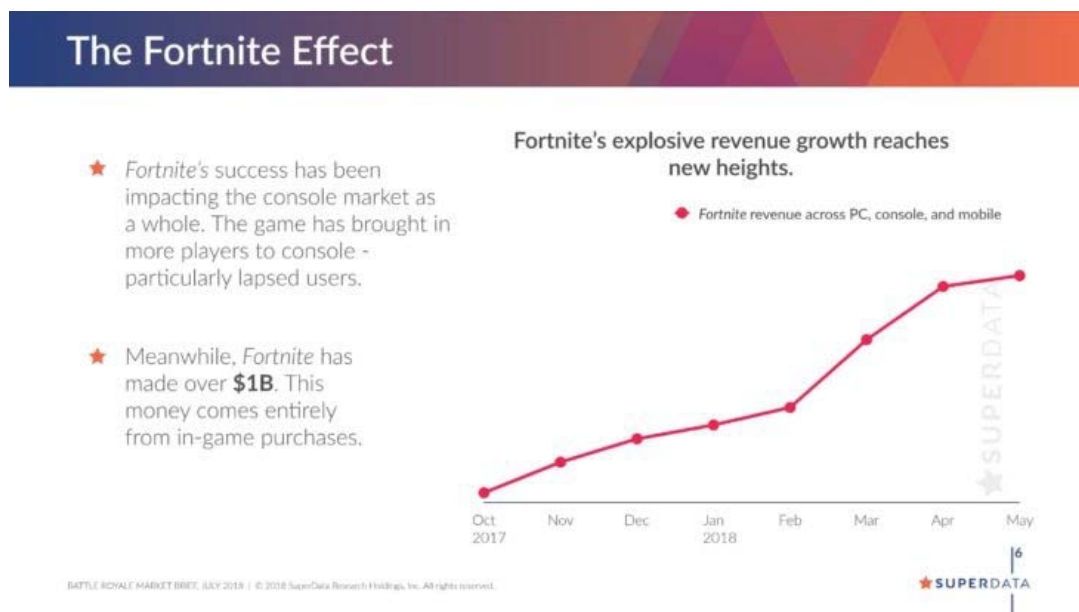
FACTUAL ALLEGATIONS**A. Fortnite: An Overview**

25. Fortnite is an open-world survival video game in which players collect weapons, tools, and resources, also commonly referred as loot, in order to survive and advance in the game.² Fortnite currently includes two game modes: Save the

² Sarah LeBoeuf, *What is 'Fortnite'? : A look at the video game that has become a* (footnote continued)

World and Battle Royale. This Complaint only concerns Fortnite Save the World.

26. Fortnite is a global phenomenon. Since its release to early access in 2017, Fortnite has taken the gaming world by storm. Its explosion of popularity has even expanded beyond the game itself making its way into professional athletes' celebrations in leagues around the world.³ Its popularity has even infiltrated schools, leaving parents and teachers concerned with its effect on education.⁴



27. Coined as “Fortnite Fever,” some researchers suggest that the excitement and obsession generated around Fortnite can exasperate a child’s

phenomenon, nbcnews.com (June 30, 2018, 8:27 AM), <https://www.nbcnews.com/tech/tech-news/what-fortnite-look-video-game-has-become-phenomenon-n887706>.

³ James Dator, *‘Fortnite’ celebrations are sweeping the sports world*, sbnation.com (Mar. 12, 2018, 3:25 PM), <https://www.sbnation.com/lookit/2018/3/11/17106330/fortnite-sports-celebrations-bundesliga-nrl-nba-nfl>.

⁴ Michael Koczwara, *Fortnite Continues to Be a Problem For Children in School*, ign.com (July 6, 2018, 10:44 AM), <https://www.ign.com/articles/2018/07/06/fortnite-continues-to-be-a-problem-for-children-in-school>.

1 inability to regulate or control themselves.⁵ UNC Healthcare pediatrician Dr.
 2 Jeffrey Ryan states that “[k]ids younger than 12 cannot regulate themselves because
 3 they don’t have the frontal lobe capacity to do so.”⁶ According to Dr. Ryan, this can
 4 cause addictive tendencies where a child cannot set limits or stop certain behaviors.⁷
 5 Dr. Ryan states “[i]t’s similar to the same feeling you get when you gamble or eat a
 6 candy bar, so that’s where there could be the potential for addiction.”⁸ One
 7 behavioral specialist even compared Fortnite to heroin, stating “[o]nce you are
 8 hooked, it’s hard to get unhooked.”⁹

9 **1. Save the World**

10 28. Save the World is a cooperative game mode where up to four players
 11 can work together to fight computer-controlled enemies called husks.¹⁰ Players do
 12 this in defense-orientated missions where they protect a location from waves of
 13 enemy husks or venture out on search missions to find survivors and supplies.¹¹

14 29. In defense-oriented missions, players build fortifications and scout for
 15 materials to craft traps, weapons, and other items to protect their base.¹² Players can
 16 also unlock different “heroes” (*i.e.* the main playable character in the game, each
 17

18 ⁵ Jeffrey Ryan, MD, *Does Your Child Have Fortnite Fever*, UNC Health Talk (Sept.
 19 12, 2018), <https://healthtalk.unchealthcare.org/does-your-child-have-fortnite-fever/>.

20 ⁶ *Ibid.*

21 ⁷ *Ibid.*

22 ⁸ *Ibid.*

23 ⁹ Jef Feely and Christopher Palmeri, *Fortnite Addiction is Forcing Kids Into Video-*
Game Rehab, [bloomberg.com](https://www.bloomberg.com/news/articles/2018-11-27/fortnite-addiction-prompts-parents-to-turn-to-video-game-rehab) (November 27, 2018, 9:21 AM),

24 [https://www.bloomberg.com/news/articles/2018-11-27/fortnite-addiction-prompts-](https://www.bloomberg.com/news/articles/2018-11-27/fortnite-addiction-prompts-parents-to-turn-to-video-game-rehab)
[parents-to-turn-to-video-game-rehab](https://www.bloomberg.com/news/articles/2018-11-27/fortnite-addiction-prompts-parents-to-turn-to-video-game-rehab).

25 ¹⁰ Andrew Melcon, *Fortnite: Save the World – Everything You Need to Know*,
 26 [tomsguide.com](https://www.tomsguide.com/us/fortnite-save-the-world-price-release-date,news-27044.html) (Apr. 23, 2018), [https://www.tomsguide.com/us/fortnite-save-the-](https://www.tomsguide.com/us/fortnite-save-the-world-price-release-date,news-27044.html)
[world-price-release-date,news-27044.html](https://www.tomsguide.com/us/fortnite-save-the-world-price-release-date,news-27044.html).

27 ¹¹ *Ibid.*

28 ¹² *Ibid.*

1 subclass of which has access to a unique set of abilities that gives them a unique
2 style of play) and “survivors” (*i.e.* a set of characters that can be assigned different
3 roles to buff player stats).¹³ In search missions, players explore the world searching
4 for loot and completing specific missions while defending themselves from enemy
5 husks.

6 30. Fortnite Save the World is currently available on PC, XBox One, and
7 PlayStation 4.

8 31. Regardless of system, a player’s experience, and Epic’s conduct and
9 representations, in Fortnite Save the World are the same.

10 **2. Battle Royale**

11 32. Battle Royale is a player-versus-player survival game where up to one
12 hundred players drop into a virtual world, gather materials, weapons, and other
13 items, and fight to be the last player standing. Both Battle Royale and Save the
14 World offer in-game purchases for sale. However, only Fortnite Save the World
15 offers loot box Llamas for sale. This Complaint only concerns Fortnite Save the
16 World.

17 **B. The Rise of Loot Boxes**

18 33. The videogame market has exploded in popularity with a market value
19 of \$78.61 billion in 2017, and an expected market value of \$90 billion by 2020.¹⁴

20 34. The new trend in gaming is to break away from the traditional pay-for-
21 game model, wherein a consumer pays a one-time fee for a game and all of its
22 features, by instead offering the underlying game for free or for a discounted price
23

24 ¹³ Josh Hawkins, *Fortnite – How to Get New Heroes*, primagames.com (July 25,
25 2017, 11:40 PM), <https://www.primagames.com/games/fortnite/tips/fortnite-how-get-new-heroes>.

26 ¹⁴ *2019 Video Game Industry Statistics, Trends & Data*, wepc.com (May 2018),
27 <https://www.wepc.com/news/video-game-statistics/#video-gaming-industry-overview>.
28

1 to lure consumers to engage in in-game microtransactions, which generate
2 significant revenue. Known as the “paywall,” players are “encouraged to spend
3 money [on microtransactions] to make unimpeded progress in the game.”¹⁵

4 35. In 2017, it is estimated consumers—a huge proportion of which are
5 minors—spent \$30 billion on video game microtransactions. That number is
6 expected to grow to \$50 billion by 2022.¹⁶

7 36. One primary method to drive revenue through microtransactions is
8 through the use of “loot boxes.”

9 37. Loot boxes are “an in-game reward system that can be purchased
10 repeatedly with real money to obtain a random selection of virtual items.”¹⁷

11 38. Loot boxes can contain everything from purely cosmetic items—known
12 as “skins,” which offer no competitive advantages—to a variety of items such as
13 “power ups” that can dramatically alter a player’s chance of progressing in the
14 game.

15 39. Resembling a slot machine, loot boxes require no player skill and have
16 randomly determined outcomes and, in this instance, undisclosed, abysmal odds.

17 40. Accordingly, players, especially minors, are driven to open an
18 indeterminable amount of loot boxes in search of their desired items.

19 41. Unfortunately for consumers, loot boxes are plagued with deception,
20 misrepresentations, and exploitation.

21 42. This deception is largely caused by the informational discrepancy

22
23 ¹⁵ Society for the Study of Addiction, *Predatory Monetization Schemes in Video*
24 *Games (e.g. Loot Boxes) and Internet Gaming Disorder* (2018) available at
25 <https://onlinelibrary.wiley.com/doi/epdf/10.1111/add.14286> (last visited Feb. 27,
26 2019).

26 ¹⁶ *Loot Boxes & Skins Gambling to Generate a \$50 Billion Industry By 2022*,
27 [https://www.juniperresearch.com/press/press-releases/loot-boxes-and-skins-](https://www.juniperresearch.com/press/press-releases/loot-boxes-and-skins-gambling)
28 [gambling](https://www.juniperresearch.com/press/press-releases/loot-boxes-and-skins-gambling) (last visited Feb. 27, 2019).

¹⁷ Society for the Study of Addiction, *supra* at n. 15.

1 between the game developers and the players. Players, many of whom are minors,
2 do not know that the loot boxes will not necessarily contain the items they tout, nor
3 do they know the odds of actually receiving the desired items in loot boxes—but the
4 game developers do.

5 43. For this reason, Apple now requires game developers to disclose the
6 odds of receiving the items in loot boxes for all games sold in its App Store.

7 44. In an effort to promote transparency and protect consumers, in
8 December 2017, Apple added guidelines to its App Store making the disclosure of
9 loot box odds mandatory. Under Apple’s new rule, “Apps offering ‘loot boxes’ or
10 other mechanisms that provide randomized virtual items for purchase must disclose
11 the odds of receiving each type of item to customers prior to purchase.”

12 45. Despite Apple’s admonition, many game developers fail to disclose the
13 odds of receiving the items in their loot boxes and loot boxes continue to generate
14 controversy.

15 46. Hawaii State Legislator Chris Lee recently wrote on Reddit, “lootboxes
16 and microtransactions are explicitly designed to prey upon and exploit human
17 psychology in the same way casino games are so designed. This is especially true
18 for young adults who child psychologists and other experts explain are particularly
19 vulnerable. These exploitive mechanisms and the deceptive marketing promoting
20 them have no place in games being marketed to minors, and perhaps no place in
21 games at all.”¹⁸

22 47. The unfairness of loot boxes is also garnering international attention.
23 Several countries, including the Netherlands, Belgium, and Australia, consider loot
24

25 ¹⁸ Ben Kuchera, *Apple adds new rules for loot boxes, requires disclosure of*
26 *probabilities*, polygon.com (Dec. 21, 2017, 9:44 AM),
27 [https://www.polygon.com/2017/12/21/16805392/loot-box-odds-rules-apple-app-](https://www.polygon.com/2017/12/21/16805392/loot-box-odds-rules-apple-app-store)
28 [store](https://www.polygon.com/2017/12/21/16805392/loot-box-odds-rules-apple-app-store).

boxes to be illegal gambling, based on the fact that consumers pay real currency for potential loot that is not guaranteed—and indeed, that is very rare.

48. The Belgian Gaming Commission recently published a report on loot boxes in gaming:

The investigation clearly shows that the purchase of loot boxes by players in the examined video games is highly problematic, both in terms of the purchase as well as the terms of the techniques used to allow players to bet using loot boxes...The disguised character of games of chance is extra problematic in the case of children. If there is no adequate intervention, then games of chance in video games will increasingly cause harm to players, families and society.

[. . .]

It is clear that the game manufacturers and platforms use many techniques for luring and encouraging players to play online and purchase loot boxes in an unrestricted manner. These techniques vary from social behavior monitoring, to lack of a data protection policy with possibly large-scale manipulation of the player through behavior-related random number generators (RNG).¹⁹

49. Moreover, many other countries have recently issued regulations or penalized game developers to address the issue of loot box deception.

50. In December 2016, China issued regulations requiring games with randomized elements to disclose the odds that consumers will win the touted loot box contents (“loot box odds”). When game developers began complying with the

¹⁹ Belgian Gaming Commission, *Research Report on Loot Boxes* (April 2018) available at https://www.gamingcommission.be/opencms/export/sites/default/jhksweb_nl/documents/onderzoeksrapport-loot-boxen-Engels-publicatie.pdf.

1 law, Chinese consumers learned that in some games, the odds of receiving the
2 touted item in a loot box were often as low as 0.1%.

3 51. Likewise, the Korean Fair Trade Commission (“FTC”), the equivalent
4 of the U.S. Federal Trade Commission, recently fined three of its developers the
5 highest-ever penalty on Korean game developers for failing to disclose to consumers
6 the odds of winning the prizes in their loot boxes. The Korean FTC argued it was
7 fundamentally unfair that loot boxes were represented to be “random,” when in fact
8 players had, in some instances, as low as 0.5% chance of receiving some of the
9 valuable loot in the box.

10 52. As discussed herein, Epic luridly advertises the valuable contents of
11 Fortnite Llamas with prominent and attention-catching representations, leading
12 reasonable minors and other players to understand they could receive the touted
13 items. But their chances of doing so are vanishingly small, and for that reason Epic
14 intentionally fails to disclose the odds of actually winning the touted items in its
15 Fortnite Llamas.

16 C. The Psychology and Manipulation of Loot Boxes

17 53. The explosive rise in microtransactions and loot boxes has subjected
18 players, which includes a considerable number of minors, to predatory monetization
19 schemes designed to hook players and keep them in the dark.

20 To do this, videogame developers design their games to exploit the disparity of
21 information between the player and game creator. This exploitation is furthered by
22 leveraging the knowledge of a player’s game related preferences, available funds,
23 playing and spending habits, etc., to tailor offers to that player to maximize the
24 likelihood of a purchase.²⁰

25 / / /

26 _____
27 ²⁰ Society for the Study of Addiction, *supra* at n.15.
28

54. Many of these predatory schemes conceal “the true long-term cost of the activity until players are already financially and psychologically committed.”²¹ Players are then subjected to unavoidable solicitations and systems that “manipulate reward outcomes to reinforce purchasing behaviors.”²²

55. Once entrapped, players often spend escalating amount of money believing they have invested too much to quit or that previously spent money will increase the likelihood of obtaining the player’s desired items. In this way, players experience the “sunk cost” effect by which they may justify further purchases.

56. Players’ willingness to pay more and buy more loot boxes is further intensified by the fact the loot boxes are purchased with virtual currency. When players, and especially minors, spend virtual currency, it is as if they are spending Monopoly money. The difference being, of course, that video game virtual currency is often purchased with actual cash.

57. Lastly, loot boxes create the “slot machine effect” wherein even when a player isn’t receiving the desired items, his or her belief that the next loot box might contain a valuable item is reinforced when viewing favorable results from other players opening loot boxes.

58. These predatory practices are extremely affective on adults and are only intensified when used on minors who “are less equipped to critically appraise the value proposition of these schemes.”²³

D. “Loot” in Fortnite Save the World: The Importance of Schematics, Heroes, and Survivors

59. To progress in Fortnite Save the World, players are induced to obtain better “schematics,” “heroes,” and survivors.” Each of these categories of items

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.*

collectively constitutes “loot” in Fortnite Save the World, and players are encouraged to obtain more and better loot in order to advance in the game.

60. “Schematics” are a type of guide that allow players to create traps, weapons, or other items valuable to game play.

61. “Heroes” are a special group of characters with perks that players assume the role of.²⁴ Every hero is rated according to its level of rarity and is given a statistical rating on various metrics. A rarer hero with higher statistics will allow a player to more easily excel in the game.

62. “Survivors” are characters that players select to boost their F.O.R.T. stats, which consist of a player’s Fortitude, Offense, Resistance, and Tech.²⁵ The level of these stats determines the power levels of player’s hero as well as the effectiveness of a player’s abilities, traps, and gadgets.²⁶

63. Importantly, schematics, heroes, and survivors have different rarity levels, which generally correspond to the level of benefits provided to the player.²⁷

64. Rarer loot is generally better and more valuable, but also more difficult to obtain.

65. Unlocking new and rarer loot is a critical part of Fortnite Save the World.²⁸ In order to complete later missions and quests and to defeat higher level enemies, players must obtain more loot to increase their power level. Put simply, better loot means further advancement in the game.

///

²⁴ <http://fortnite.wikia.com/wiki/Hero> (last visited Feb. 27, 2019).

²⁵ Fortitude affects a player’s health and health regeneration, Offense affects a player’s weapon damage, Resistance affects a players’ shields and shields regeneration, and Tech a player’s traps, abilities, gadgets, and healing.

²⁶ https://fortnite.gamepedia.com/F.O.R.T._Stats (last visited Feb. 27, 2019).

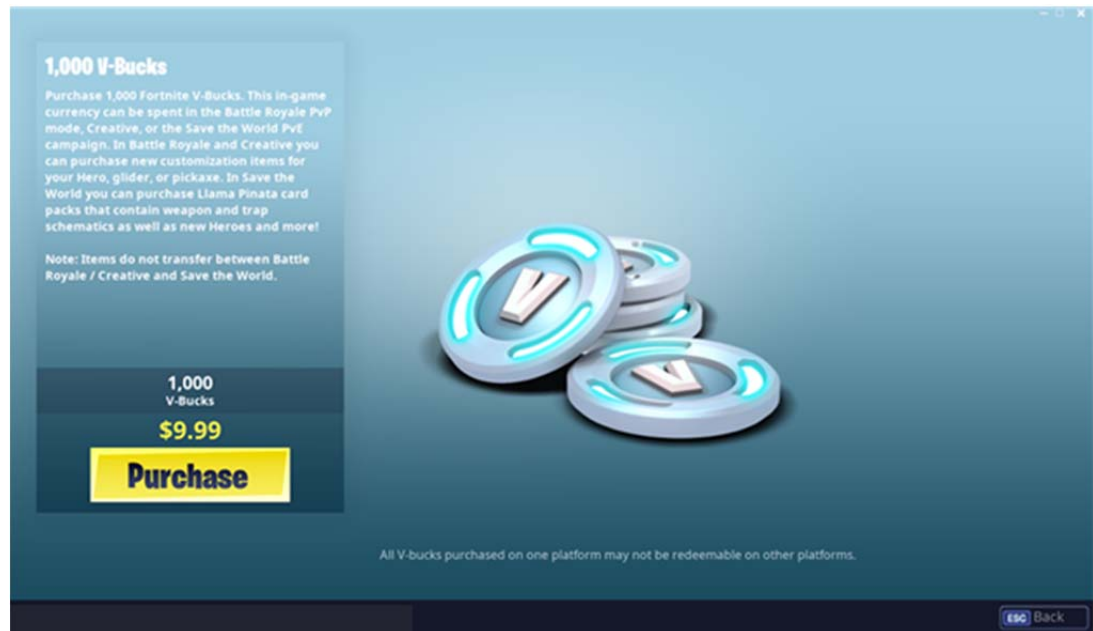
²⁷ <https://fortnite.gamepedia.com/Rarity> (last visited Feb. 27, 2019).

²⁸ *Ibid.*

1 **1. V-Bucks**

2 66. To obtain better loot, players open Llamas, which can occasionally be
3 earned through gameplay, but are more likely purchased with in-game currency
4 known as “V-Bucks.”

5 67. V-Bucks can be purchased or earned by playing Fortnite Save the
6 World.



17 68. Players can earn V-Bucks in-game or purchase them for money.
18 However, earning V-Bucks in the game is a difficult and inconsistent process due to
19 the amount of playtime required and the randomness at which V-Bucks are offered
20 as rewards. By making V-Bucks inordinately difficult and time consuming to earn,
21 Epic creates a “paywall,” thus inducing players to purchase V-bucks instead of
22 earning them.

23 69. One hundred V-Bucks generally costs around \$1.00. However, a
24 player can obtain V-Bucks at a discount by purchasing a higher quantity. For
25 example, for a price of \$99.99, a player can purchase 13,500 V-Bucks, a \$135.00
26 value.

27 70. While 13,500 V-Bucks might seem like a lot, players quickly burn
28 through V-Bucks on Llamas, which cost upwards of 1,500 V-Bucks per Llama.

1 71. The V-Bucks system allows Epic to play several tricks on its players,
2 especially its minor players. First, because players have converted their money to
3 V-Bucks, it is difficult for players to conceptualize how much actual money they
4 have spent on purchases. This is especially effective on minors who may not have a
5 firm understanding or conceptualization of the relation of money spent to V-Bucks
6 spent.

7 72. This lack of understanding is especially apparent given many young
8 players' willingness to spend hundreds or even thousands of dollars on V-Bucks, in
9 a game that itself only costs \$39.99 to buy. If a player was confronted with the
10 amount of money he or she would need to spend at the time of purchase, as opposed
11 to when the player has purchased the game and is invested in playing, most players
12 would think that hundreds of dollars, let alone thousands of dollars, is an exorbitant
13 price to pay to play a video game.

14 73. Second, by only allowing V-Bucks to be purchased in currency packs,
15 and setting the price of items at odd amounts, Epic is playing the "10 hotdogs, 8
16 buns" trick. The amount of V-Bucks in a currency pack almost never corresponds
17 evenly to the price of items. Using this system, Epic perpetuates a cycle of
18 constantly needing V-Bucks, and never having enough, which leads players to
19 purchase more. This cycle is further perpetuated by Epic offering "limited time"
20 Llamas or "limited time sales" on certain Llama prices.

21 74. Third, because Epic does not provide players a history of their
22 purchases in-game or otherwise, it is very easy for players to spend an exorbitant
23 amount of V-Bucks without knowing exactly when and what amount of V-Bucks
24 were spent at any given time. If Epic provided a purchasing history, players could
25 more easily discern how valueless Llamas are. The lack of any such history keeps
26 the player in the dark regarding their purchases and perpetuates further Llama
27 purchases.

75. Finally, Epic’s induces players into making more purchases by making the purchase process incredibly easy. Once a player enters and saves a payment method, that player can purchase more V-Bucks at a whim almost instantly. In practice, that means minors can use their parents’ credit cards to make an endless number of purchases, with or without permission. The ease of purchase combined with the constant cycle of needing V-Bucks for the latest and greatest items results in more purchases.

E. Loot Boxes in Fortnite Save the World: Llamas

76. The central way in which Fortnite players attempt to unlock new and valuable loot is by opening Llamas. Llamas contain “randomized” loot for use in the Fortnite game.

77. Players can collect limited amounts of Llamas through playing the game, but may also purchase Llamas with V-Bucks.

78. Fortnite provides a litany of different Llama options for purchase.²⁹ Llamas come in different tiers: “regular,” “silver,” or “gold” which allegedly correspond to the “rarity” of the potential loot contained inside.

79. Regardless of tier, Epic intentionally obscures the infinitesimal odds of winning sought-after rare loot in its Llamas, luring players into making more and more purchases on the off-chance that the next Llama will contain the rare item they are seeking. Epic knew that by doing this it would induce minors and other players to purchase Llamas.

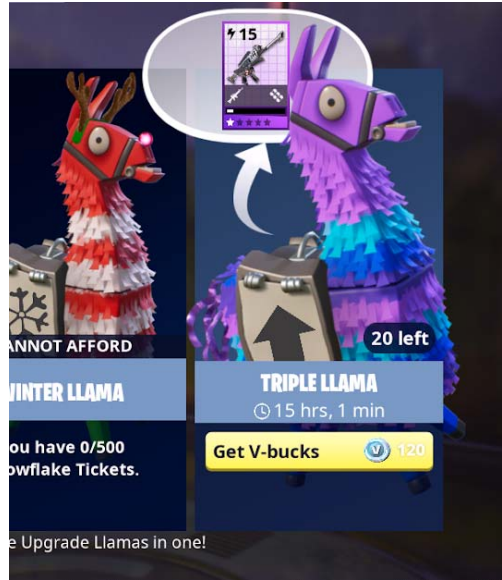
1. Purchasing and Opening Llamas

80. To purchase a Llama, players select which Llama they want and hit the purchase button. Moving a cursor over a specific Llama will bring up a thought bubble showing loot as well as a description of the Llama.

²⁹ https://fortnite.gamepedia.com/Llama_Pinatas (last visited Feb. 27, 2019).

81. Players understand these “thought bubbles” to be an indication of what is actually likely to be contained inside. But the reality is that players are extremely unlikely to receive the specific higher tier loot shown.

82. The odds of receiving specific items, or specific categories of items, are never displayed.



83. The player is then brought to the Llama opening screen where the player uses a stick to open the Llama, like a pinata.



84. If the Llama is of the “regular” tier, it will break open upon the first strike. However, if the Llama is “silver” tier it will make a metal clunking sound revealing the silver Llama.



85. The player can then strike the Llama again. If the player is lucky, the Llama will make another clunking sound revealing a gold Llama. Otherwise, the Llama will break upon revealing any potential loot.



86. The player is then presented with loot of varying rarity.

87. As discussed below, through its misrepresentations and omissions, Epic overstates the odds of receiving higher tier (rarer) loot in its Llamas. If players

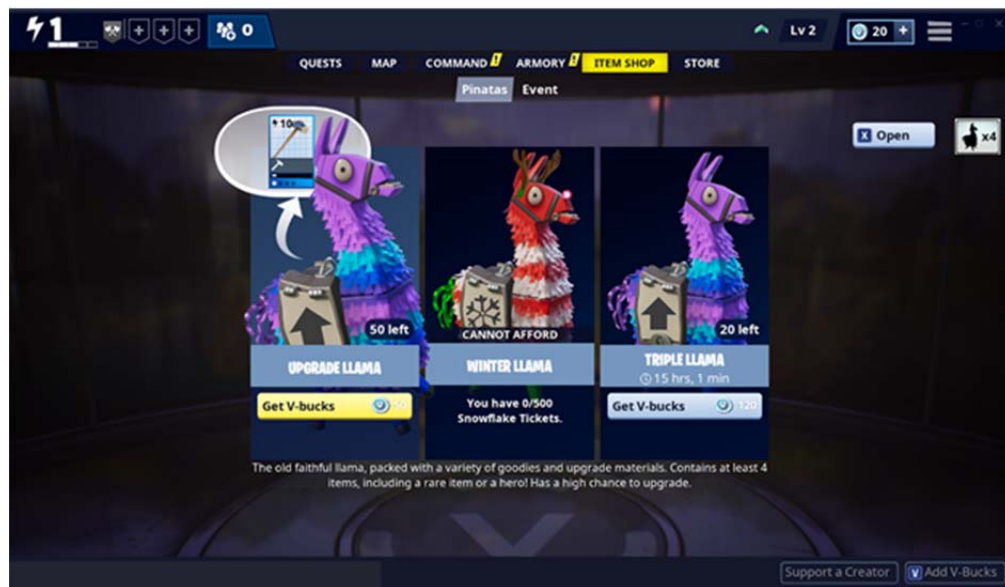
1 knew the actual odds of receiving the items they desired, they would not purchase
2 the Llamas.

3 2. Upgrade Llamas

4 88. “Upgrade Llamas” are the only Llamas available for purchase at all
5 times and are incredibly deceptive to players.

6 89. Upgrade Llamas are enticing to players because of the random chance
7 that the Llama may upgrade to silver or gold tier, and thus provide high-tier rare
8 loot, at a relatively discounted price compared to other types of Llamas available for
9 purchase in the game.

10 90. Epic describes the Upgrade Llama as “[t]he old faithful llama, packed
11 with a variety of goodies and upgrade materials. Contains at least 4 items, **including**
12 **a rare item or a hero! Has a high chance to upgrade.** Hitting the upgrade
13 symbol will upgrade it.” (emphasis added).³⁰



24 91. These representations—along with the name “Upgrade Llama”—are
25 false.

26
27 ³⁰ *Ibid.*

1 92. First, Epic represents that the Llama has a “high chance to upgrade.”
2 This potential to upgrade to silver or gold level tier, and thus rarer schematics,
3 heroes, and survivors, is a crucial—but false—representation. Epic has never
4 disclosed the odds of an upgrade llama upgrading, which is actually very unlikely
5 and certainly not “high.”³¹

6 93. Second, the name “Upgrade Llama” is itself deceptive because, far
7 more times than not, the Upgrade Llama will not “upgrade.”

8 94. Third, the thought bubble next to the Upgrade Llamas is deceptive.
9 The thought bubble often displays a rare, sought-after item, leading reasonable
10 consumers to believe if they purchase the Upgrade Llama, they will obtain the item.
11 In reality, the odds of the consumer receiving the item in the thought bubble are next
12 to nothing.

13 95. Finally, Epic fails to disclose the odds of an Upgrade Llama
14 “upgrading” and fails to disclose the odds of receiving higher tier loot in Upgrade
15 Llamas. Upgrade Llamas do not in fact contain high tier loot with regularity. In
16 fact, a player’s odds of obtaining high tier loot is low. This material omission is
17 itself actionable.

18 **3. Daily Llamas**

19 96. “Daily Llamas” offer targeted high-tier loot at a premium price, but,
20 similar to “Upgrade Llamas,” fail to disclose the odds of receiving the highest tier
21 loot.

22 97. Daily Llamas rotate daily and can cost anywhere from approximately
23 120 V-Bucks to 1500 V-Bucks depending on the type. At the higher end, players
24 can spend upwards of \$15 dollars per Daily Llama.

25 _____
26 ³¹ Merriam Webster’s Dictionary defines “high” as “of greater degree, amount, cost,
27 value, or content than average, usual, or expected.”
28

1 98. Daily Llamas come in different varieties including Llamas that target
2 specific types of items or specific classes of heroes.

3 99. One of the ways Epic induces players to purchase Llamas is by limiting
4 the availability of Daily Llamas. Specifically, Epic often offers a Daily Llama for a
5 limited twenty-four-hour period. This sense of artificial scarcity induces players to
6 purchase Daily Llamas in the hopes their Llama will contain the touted prize.

7 100. While Daily Llamas vary in their precise representations, they all
8 uniformly contain the same two misrepresentations and omissions.

9 101. First, the thought bubble next to the Upgrade Llama is deceptive. The
10 thought bubble often displays a rare, sought-after item, leading reasonable
11 consumers to believe if they purchase the Daily Llama, they will obtain the item. In
12 reality, the odds of the consumer receiving the item in the thought bubble are next to
13 nothing.

14 102. Second, Epic fails to disclose the odds of receiving the highest tier loot
15 in Daily Llamas. Daily Llamas do not in fact contain the highest tier loot with
16 regularity. In fact, a player's odds of obtaining the highest tier loot is low. Like with
17 Upgrade Llamas, Epic's failure to disclose the odds of receiving the touted items in
18 Daily Llamas constitutes an actionable omission.

19 **4. Epic is Aware its Llamas Are Deceptive Because Numerous**
20 **Consumers Have Voiced Complaints**

21 103. Epic is aware or should be aware that its Llamas are deceptively
22 marketed. Indeed, numerous consumers have voiced their complaints online to Epic
23 regarding the loot they received in their Llamas:

24 [I]t feels like I am gambling to get good gear they've made it really
25 hard to make this game fun due to this unrewarding llama system . . .
26 the regular llamas have a small chance to turn gold. This needs to be
27 changed . . . it makes you spend a ton of money for llamas that
28

1 you've no good way of telling if you're going to get something good.
2 This is almost unacceptable[.]³²

3
4 I feel like I can't progress anymore unless I drop more money into this
5 game.. so far I've spent \$233 on llamas not a single legendary/mythic
6 and my llamas has turned gold 6 times and no legendary I thought it
7 was guaranteed?³³

8
9 [T]he llamas are so awful now and the odds of good loot is
10 miniscule.³⁴

11
12 The issue I have is with the upgrade chance and loot drops from
13 llamas . . . Out of the 20 Double loot llamas I got 0 gold, 1 silver, and
14 rest normal. This is just a horrid rate[.] . . . I put a lot of time and
15 energy into Fortnite. To spend 6k V bucks and get 1 legendary and 2
16 epics worth using. To say the least this dulls the excitement of playing
17 the game.³⁵

18
19 Why do my fortnitemares llamas absolutely suck?
20

21 ³² [https://www.epicgames.com/fortnite/forums/archive/84676-buying-llamas-is-](https://www.epicgames.com/fortnite/forums/archive/84676-buying-llamas-is-basically-gambling)
22 [basically-gambling](https://www.epicgames.com/fortnite/forums/archive/84676-buying-llamas-is-basically-gambling) (last visited Feb. 27, 2019).

23 ³³ [https://www.reddit.com/r/FORTnITE/comments/6r06mz/i_guess_ive_hit_the_payw-](https://www.reddit.com/r/FORTnITE/comments/6r06mz/i_guess_ive_hit_the_paywall/)
24 [all/](https://www.reddit.com/r/FORTnITE/comments/6r06mz/i_guess_ive_hit_the_paywall/) (last visited Feb. 27, 2019).

25 ³⁴ [https://www.reddit.com/r/FORTnITE/comments/7z3xni/llamas_should_be_less_exp-](https://www.reddit.com/r/FORTnITE/comments/7z3xni/llamas_should_be_less_expensive/)
26 [ensive/](https://www.reddit.com/r/FORTnITE/comments/7z3xni/llamas_should_be_less_expensive/)(last visited Feb. 27, 2019).

27 ³⁵ [https://www.epicgames.com/fortnite/forums/early-access/feedback/117986-loot-](https://www.epicgames.com/fortnite/forums/early-access/feedback/117986-loot-llama-concerns)
28 [llama-concerns](https://www.epicgames.com/fortnite/forums/early-access/feedback/117986-loot-llama-concerns)(last visited Feb. 27, 2019).

1 I have opened 12 of them total today and only got 2 legendaries.³⁶

2
3 Hi, i stopped playing Fortnite cuz “Llama loot system”, bec[a]use you
4 cant craft literally anything and if you want some legendary you must
5 buy Llamas... but if you are unlucky you will get some useless rares
6 and thats all. it very frustrating for me and my friends.³⁷

7
8 [Y]ou get the 1000-1500 llama in-between duplicates and rolls. You
9 could go 20 times and not get a single upgrade or good item.³⁸

10
11 I opened 27 lamas yesterday and got 1 silver lama . I wont be
12 spending any more money . All i want is the legendary Scar Or any
13 good Assault rife... i wish they would just sell it :)³⁹

14
15 So Loot Llama’s..... I’m not sure about all of you but I don’t like
16 being taken advantage of and that’s what the DEV’s are doing. Loot
17 Llama’s use to give 10 things and always gave 2 epics if not a
18 legendary and fire cracker also gave 2 epic or a single or 2 legendary.
19 I just got done opening 2 fire cracker both[] gave me just 1 epic. I then
20 opened a daily Llama and it gave me 5 items no epic or legendary. I

21
22 ³⁶[https://www.reddit.com/r/FORTnITE/comments/9rnxd/why_do_my_fortnitemare](https://www.reddit.com/r/FORTnITE/comments/9rnxd/why_do_my_fortnitemare_s_llamas_absolutley_suck/(last%20visited%20Feb.%2027,%202019).)
23 [s_llamas_absolutley_suck/\(last visited Feb. 27, 2019\).](https://www.reddit.com/r/FORTnITE/comments/9rnxd/why_do_my_fortnitemare_s_llamas_absolutley_suck/(last%20visited%20Feb.%2027,%202019).)

24 ³⁷[https://www.epicgames.com/fortnite/forums/archive/74444-llamas-loot-system-](https://www.epicgames.com/fortnite/forums/archive/74444-llamas-loot-system-sucks(last%20visited%20Feb.%2027,%202019).)
25 [sucks\(last visited Feb. 27, 2019\).](https://www.epicgames.com/fortnite/forums/archive/74444-llamas-loot-system-sucks(last%20visited%20Feb.%2027,%202019).)

26 ³⁸[https://www.reddit.com/r/FORTnITE/comments/7z3xni/llamas_should_be_less_exp](https://www.reddit.com/r/FORTnITE/comments/7z3xni/llamas_should_be_less_expensive/(last%20visited%20Feb.%2027,%202019).)
27 [ensive/\(last visited Feb. 27, 2019\).](https://www.reddit.com/r/FORTnITE/comments/7z3xni/llamas_should_be_less_expensive/(last%20visited%20Feb.%2027,%202019).)

28 ³⁹[https://www.epicgames.com/fortnite/forums/early-access/feedback/117986-loot-](https://www.epicgames.com/fortnite/forums/early-access/feedback/117986-loot-llama-concerns(last%20visited%20Feb.%2027,%202019).)
[llama-concerns\(last visited Feb. 27, 2019\).](https://www.epicgames.com/fortnite/forums/early-access/feedback/117986-loot-llama-concerns(last%20visited%20Feb.%2027,%202019).)

1 think its really hot garbage for them to do this kind of stuff to us. All
 2 this is a ploy to get more money out of us to LINE their(sic)
 3 POCKETS.⁴⁰

4
 5 I got 1 mythic that I didn't need out of 3 llamas, so thanks epic for
 6 pocketing my \$30 for nothing.⁴¹

7
 8 I absolutely hate this kind of pay to play model. You sink an
 9 additional 30 bucks into the game for liamas(sic) you should walk
 10 away with some nice stuff. But instead I walked away feeling ripped
 11 off, like it was a waste.]⁴²

12
 13 104. The reality is while players expect to receive top-tier loot, they don't
 14 get it. This causes players, especially minors, to continue to spend money seeking
 15 that next gold Llama or mythic item when in reality the odds are undisclosed and
 16 heavily weighed against them.

17 **RULE 9(b) ALLEGATIONS**

18 105. Rule 9(b) of the Federal Rules of Civil Procedure provides that "[i]n
 19 alleging fraud or mistake, a party must state with particularity the circumstances
 20 constituting fraud or mistake. Fed. R. Civ. P. 9(b). To the extent necessary, as
 21 detailed in the paragraphs above and below, Plaintiff has satisfied the requirements
 22 of Rule 9(b) by establishing the following elements with sufficient particularity:

23 _____
 24 ⁴⁰ [https://www.epicgames.com/fortnite/forums/early-access/feedback/170325-dev-s-](https://www.epicgames.com/fortnite/forums/early-access/feedback/170325-dev-s-have-really-really-lost-thier-minds)
 25 [have-really-really-lost-thier-minds](https://www.epicgames.com/fortnite/forums/early-access/feedback/170325-dev-s-have-really-really-lost-thier-minds) (last visited Feb. 27, 2019).

26 ⁴¹ [https://www.reddit.com/r/FORTnITE/comments/a36jo4/super_people_llama_is_h-](https://www.reddit.com/r/FORTnITE/comments/a36jo4/super_people_llama_is_here_should_i_get_it/)
 27 [ere_should_i_get_it/](https://www.reddit.com/r/FORTnITE/comments/a36jo4/super_people_llama_is_here_should_i_get_it/) (last visited Feb. 27, 2019).

28 ⁴² [https://www.reddit.com/r/FORTnITE/comments/6qxb35/llamas_the_gamblers_fall](https://www.reddit.com/r/FORTnITE/comments/6qxb35/llamas_the_gamblers_fallacy_mythic_heroes_and_you/)
[acy_mythic_heroes_and_you/](https://www.reddit.com/r/FORTnITE/comments/6qxb35/llamas_the_gamblers_fallacy_mythic_heroes_and_you/) (last visited Feb. 27, 2019).

106. WHO: Defendant Epic Games, Inc. made material misrepresentations and/or omissions of fact in selling “Upgrade Llamas” and “Daily Llamas” in Fortnite Save the World.

107. WHAT: Defendant made material misrepresentations and/or omissions of fact that players would receive high-tier loot in their “Upgrade Llamas” and “Daily Llamas” when in reality the odds of getting that loot was very low. Defendant’s misrepresentations and/or omissions were material because a reasonable player would not have purchased “Upgrade Llamas” and/or “Daily Llamas” if they knew that their odds of receiving high-tier loot were so low.

108. WHEN: Defendant made material misrepresentations and/or omissions detailed herein continuously throughout the Class Period.

109. WHERE: Defendant’s material misrepresentations and/or omissions were made in its game, Fortnite Save the World.

110. HOW: Defendant made written misrepresentations and/or failed to disclose material facts regarding players’ odds of receiving high-tier loot in its Llamas.

111. WHY: Defendant engaged in the material misrepresentations and/or omissions detailed herein for the express purpose of inducing Plaintiff and other reasonable players to purchase and/or pay for “Upgrade Llamas” and “Daily Llamas.” Defendant profited by selling “Upgrade Llamas” and “Daily Llamas” to thousands of consumers.

CLASS ACTION ALLEGATIONS

112. Plaintiff brings this action individually and as representatives of all those similarly situated, on behalf of the below-defined Class:

All persons in California who, within the applicable statute of limitations, purchased a Llama with V-Bucks that they bought with money in Fortnite Save the World.

113. Excluded from the Class are Defendant and its affiliates, parents,

1 subsidiaries, employees, officers, agents, and directors. Also excluded are any
 2 judicial officers presiding over this matter and the members of their immediate
 3 families and judicial staffs.

4 114. This case is appropriate for class treatment because Plaintiff can prove
 5 the elements of his claims on a class-wide basis using the same evidence as would
 6 be used to prove those elements in individual actions alleging the same claims.

7 115. **Numerosity:** The members of the Class are so numerous that joinder of
 8 all members would be unfeasible and not practicable. The membership of the Class
 9 is unknown to Plaintiff at this time; however, it is estimated that it numbers in the
 10 thousands. The identity of such membership is readily ascertainable via inspection
 11 of Defendant's books and records or other approved methods. Similarly, Class
 12 members may be notified of the pendency of this action by mail, email, internet
 13 postings, and/or publication.

14 116. **Common Questions of Law or Fact:** There are common questions of
 15 law and fact as to Plaintiff and all other similarly situated persons, which
 16 predominate over questions affecting only individual Class members, including,
 17 without limitation:

18 a. Whether Epic disclosed the odds of winning loot in its Llamas in
 19 Fortnite Save the World;

20 b. Whether Epic's misrepresentations and omissions are false,
 21 misleading, deceptive, or likely to deceive reasonable consumers;

22 c. Whether Epic's failure to disclose the odds of winning loot in its
 23 Llamas constituted a material omission likely to deceive;

24 d. Whether Plaintiff and the Class members were damaged by
 25 Epic's conduct;

26 e. Whether Epic's actions or inactions violated the consumer
 27 protection statutes invoked herein; and

28 f. Whether Plaintiff is entitled to a preliminary and permanent

1 injunction enjoining Defendant's conduct.

2 117. **Predominance of Common Questions:** Common questions of law and
3 fact predominate over questions that affect only individual members of the Class.
4 The common questions of law set forth above are numerous and substantial and
5 stem from Epic's practices applicable to each individual Class member. As such,
6 these common questions predominate over individual questions concerning each
7 individual Class member's showing as to his or her eligibility for recovery or as to
8 the amount of his or her damages.

9 118. **Typicality:** Plaintiff's claims are typical of the claims of the other
10 members of the Class because, among other things, Plaintiff and all Class members
11 were comparably injured through Epic's misconduct described above. As alleged
12 herein, Plaintiff, like the members of the Class, was deprived of monies that
13 rightfully belonged to him by Epic. Further, there are no defenses available to Epic
14 that are unique to Plaintiff.

15 119. **Adequacy of Representation:** Plaintiff is an adequate class
16 representative because his interests do not conflict with the interests of other Class
17 members he seeks to represent. Moreover, Plaintiff's attorneys are ready, willing
18 and able to fully and adequately represent Plaintiff and the members of the Class.
19 Plaintiff's attorneys are experienced in complex class action litigation, and they will
20 prosecute this action vigorously. Plaintiff and his counsel, who are experienced
21 class action lawyers, will fairly and adequately protect the Class members' interests.

22 120. **Superiority:** The nature of this action and the laws available to
23 Plaintiff and members of the Class make the class action format a particularly
24 efficient and appropriate procedure to redress the violations alleged herein. If each
25 Class member were required to file an individual lawsuit, Epic would necessarily
26 gain an unconscionable advantage since it would be able to exploit and overwhelm
27 the limited resources of each individual plaintiff with its vastly superior financial
28 and legal resources. Moreover, the prosecution of separate actions by the individual

1 Class members, even if possible, would create a substantial risk of inconsistent or
 2 varying verdicts or adjudications with respect to the individual Class members
 3 against Epic, and which would establish potentially incompatible standards of
 4 conduct for Epic and/or legal determinations with respect to individual Class
 5 members which would, as a practical matter, be dispositive of the interest of the
 6 other Class members not parties to adjudications or which would substantially
 7 impair or impede the ability of the Class members to protect their interests. Further,
 8 the claims of the individual members of the Class are not sufficiently large to
 9 warrant vigorous individual prosecution considering all of the concomitant costs and
 10 expenses attending thereto.

11 **CLAIMS FOR RELIEF**

12 **FIRST CLAIM FOR RELIEF**

13 **Violation of the Consumer Legal Remedies Act**

14 **[California Civil Code §§ 1750, *et seq.*]**

15 **(On Behalf of Plaintiff and the Class)**

16 121. Plaintiff incorporates by reference all of the above allegations as if fully
 17 set forth herein.

18 122. The Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.*
 19 (“CLRA”), was designed and enacted to protect consumers from unfair and
 20 deceptive business practices. To this end, the CLRA sets forth a list of unfair and
 21 deceptive acts and practices in Civil Code § 1770.

22 123. Plaintiff and each member of the Class are “consumers” within the
 23 meaning of Cal. Civ. Code § 1761(d).

24 124. Plaintiff and the Class members engaged in “transactions” with Epic
 25 within the meaning of Cal. Civ. Code § 1761(e) when they purchased Llamas.

26 125. Plaintiff has standing to pursue these claims because he has suffered
 27 injury in fact and a loss of money and/or property as a result of the wrongful
 28 conduct alleged herein.

126. Defendant violated and continues to violate California Civil Code §§ 1770(a)(5) and (a)(9) by misleading consumers about the odds of receiving loot in its Llamas and failing to disclose the odds of receiving loot in its Llamas.

127. Defendant continues to violate the CLRA and continues to injure the public by misleading consumers about the odds of winning top-tier loot in its Llamas. Accordingly, Plaintiff seeks injunctive relief to prevent Defendant from continuing to engage in these deceptive and illegal practices. Otherwise, Plaintiff and the Class and members may be irreparably harmed and/or denied effective and complete remedy if such an order is not granted.

128. Defendant had a duty not to mislead consumers about the odds of winning loot in its Llamas. The odds of winning loot in its Llamas were material in that a reasonable person would have considered it important in deciding whether to purchase Llamas.

129. Defendant's concealment, omissions, misrepresentations, and deceptive practices, in violation of the CLRA, were designed to induce and did induce Plaintiff and Class members to purchase Llamas.

130. On information and belief, Defendant intentionally, willfully, and consciously acted to misrepresent and omit material information regarding its Llamas to Plaintiff and the Class, in order to deceive and illicit payment from them for its Llamas. Defendant did so knowing that a significant number of the Class were minors.

131. Defendant's acts, practices, representations, omissions, and courses of conduct with respect to the "Upgrade Llamas" violated the CLRA in that, among other things: it violated § 1770(a)(5) because it misrepresented that its "Upgrade Llamas" had a "high chance to upgrade" and contain better loot when in fact the odds were low; and violated § 1770(a)(9) because it advertised "Upgrade Llamas" as having a "high chance to upgrade" and contain better loot, when in reality the chances of receiving better loot were low.

132. Defendant's acts, practices, representations, omissions, and courses of conduct with respect to the "Upgrade Llamas" and "Daily Llamas" violate the CLRA in that, among other things: it violated and continues to violate § 1770(a)(5) because Defendant knowingly failed to disclose and continues to fail to disclose the odds of winning loot in its Llamas, which is information that is solely in Defendant's possession and which is material to consumers purchasing decisions; violated and continues to violate § 1770(a)(9) because Defendant knowingly advertised and advertises Llamas as way to obtain loot but failed to disclose and continues to fail to disclose the odds of winning top-tier loot in its Llamas, which is information that is solely in Defendant's possession and which is material to consumers purchasing decisions.

133. Defendant's acts and practices, undertaken in transactions intended to result and which did result in consumers paying for Llamas violate Civil Code § 1770 and caused harm to Plaintiff and Class members.

134. In accordance with Cal. Civ. Code § 1780(a), Plaintiff and the Class members seek injunctive and equitable relief for violations of the CLRA, including restitution and disgorgement.

135. Plaintiff reserves the right to amend the Complaint to seek damages within thirty (30) days of Plaintiff's notice to Defendant under Cal. Civil Code § 1782.

136. Plaintiff's affidavit stating facts showing that venue in this Court is proper pursuant to Cal. Civ. Code § 1780(d) is attached hereto as **Exhibit A**.

///

///

///

///

///

///

SECOND CLAIM FOR RELIEF
Unjust Enrichment
(On Behalf of Plaintiff and the Class)

137. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein.

138. By means of the wrongful conduct alleged herein, Defendant knowingly misrepresented the odds of receiving loot in its Llamas in a way that was unfair, unconscionable, and oppressive.

139. Plaintiff and the members of the Class conferred an economic benefit upon Defendant by paying for V-Bucks which they in turn used to purchase Llamas, and Defendant had an appreciation or knowledge of the benefit conferred by Plaintiff and the members of the Class.

140. Defendant accepted and retained the economic benefit conferred by Plaintiff and members of the Class under circumstances as to make it inequitable for Defendant to retain the benefit without payment of its value.

141. The financial benefits obtained by Defendant rightfully belong to Plaintiff and members of the Class. Defendant should be compelled to disgorge in a common fund for the benefit of Plaintiff and members of the Class all wrongful or inequitable proceeds of their conduct. A constructive trust should be imposed upon all wrongful or inequitable sums received by Defendant traceable to Plaintiff and the members of the Class.

THIRD CLAIM FOR RELIEF
Violation of California's False Advertising Law
(Bus. & Prof. Code §§ 17500, *et seq.*)
(On Behalf of Plaintiff and the Class)

142. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein.

143. California's False Advertising Law ("FAL"), Cal. Bus. & Prof. Code §

1 17500, states that “[i]t is unlawful for any. . . corporation . . . with intent . . . to
 2 dispose of . . . personal property . . . to induce the public to enter into any obligation
 3 relating thereto, to make or disseminate or cause to be made or disseminated . . .
 4 from this state before the public in any state, in any newspaper or other publication,
 5 or any advertising device, or by public outcry or proclamation, or in any other
 6 manner or means whatever, including over the Internet, any statement...which is
 7 untrue or misleading and which is known, or which by the exercise of reasonable
 8 care should be known, to be untrue or misleading . . .”

9 144. Defendant’s material misrepresentations and omissions alleged herein
 10 violate Bus. & Prof. Code § 17500.

11 145. Defendant knew or should have known that its misrepresentations and
 12 omissions were false, deceptive, and misleading.

13 146. Pursuant to Business & Professions Code §§ 17203 and 17500,
 14 Plaintiff and the members of the Class seek an order of this Court enjoining
 15 Defendant from continuing to engage, use, or employ their practice of failing to
 16 disclose the odds of receiving loot in their Llamas.

17 147. Further, Plaintiff and the members of the Class request an order
 18 awarding Plaintiff restitution of the money wrongfully acquired by Defendant by
 19 means of said misrepresentations and omissions.

20 148. Additionally, Plaintiff and the Class members seek an order requiring
 21 Defendant to pay attorneys’ fees pursuant to Cal. Civ. Code § 1021.5.

22 **FOURTH CLAIM FOR RELIEF**
 23 **Violation of California’s Unfair Competition Law**
 24 **[Cal. Bus. & Prof. Code § 17200, *et seq.*]**
 25 **(On Behalf of Plaintiff and the Llama Class)**

26 149. Plaintiff incorporates by reference all of the above allegations as if fully
 27 set forth herein.

28 150. Plaintiff and the members of the Class have standing to pursue a cause

1 of action against Defendant for unfair and/or unlawful business acts or practices
2 because they have suffered an injury-in-fact and lost money due to Defendant's
3 actions and/or omissions as set forth herein.

4 151. Defendant's conduct is unlawful under Bus. & Prof. Code § 17200 *et*
5 *seq.* ("UCL") because it is in violation of the CLRA and FAL, as discussed above.

6 152. Defendant's conduct described herein is "unfair" under Bus. & Prof.
7 Code § 17200 because it violates public policy and is immoral, unethical,
8 oppressive, unscrupulous, and/or substantially injurious to consumers, and any
9 utility of such practices is outweighed by the harm caused to consumers, including
10 to Plaintiff, the Class, and the public.

11 153. In addition, Defendant's conduct constitutes a fraudulent business
12 practice within the meaning of Bus. & Prof. Code § 17200, *et seq.*, in that Defendant
13 intentionally and knowingly misrepresented the odds of winning loot in its Llamas,
14 through both their affirmative misrepresentations and material omissions. Such
15 representations and omissions misled Plaintiff and Class members and are likely to
16 mislead the public. Had Plaintiff known the odds of winning the loot he desired in
17 the Llamas he purchased, he would not have purchased them.

18 154. Defendant knew or should have known that their representations
19 regarding the Llamas were false, deceptive, and misleading.

20 155. Defendant's wrongful conduct is ongoing and part of a pattern or
21 generalized course of conduct repeated on thousands of occasions yearly.

22 156. Pursuant to Bus. & Prof. Code § 17203, Plaintiff seeks an injunction
23 enjoining Defendant from continuing to engage in the unfair competition described
24 above, or any other act prohibited by law.

25 157. Plaintiff also seeks rescission and an order requiring Defendant to make
26 full restitution and to disgorge their ill-gotten gains wrongfully obtained from
27 members of the Class as permitted by Bus. & Prof. Code § 17203.

28 158. Additionally, Plaintiff and the Class members seek an order requiring

1 Defendant to pay attorneys' fees pursuant to Cal. Civ. Code § 1021.5.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays that the Court enter judgment on its behalf and
4 on behalf of the Class herein, and seeks an Order from the Court:

- 5 a) certifying the proposed Class defined herein;
- 6 b) appointing Plaintiff as Class Representative;
- 7 c) appointing counsel for Plaintiff as Class Counsel;
- 8 d) declaring Defendant's conduct to be unlawful;
- 9 e) permanently enjoining Defendant from engaging in the
- 10 unlawful conduct described above;
- 11 f) requiring Defendant to restore Plaintiff and others any monies
- 12 that were acquired by means of their unlawful conduct;
- 13 g) awarding Plaintiff compensatory, direct, and consequential
- 14 damages, including prejudgment interest, in an amount to be
- 15 determined a trial;
- 16 h) awarding punitive damages and/or treble damages as the
- 17 Court deems appropriate;
- 18 i) requiring Defendant to pay Plaintiff's attorneys' fees and
- 19 costs; and
- 20 j) granting such other and further relief as this Court deem just
- 21 and proper.

22 **DEMAND FOR JURY TRIAL**

23 Plaintiff hereby requests a trial by jury for all matters so triable in this action.

24

25

26

27

28

1 DATED: February 28, 2019

PEARSON, SIMON & WARSHAW, LLP

2

3

By: /s/ Daniel L. Warshaw

4

DANIEL L. WARSHAW

5

DANIEL L. WARSHAW (Bar No. 185365)
dwarshaw@pswlaw.com

6

PEARSON, SIMON, & WARSHAW, LLP

7

15165 Ventura Boulevard, Suite 400

8

Sherman Oaks, California 91403

9

Telephone: (818) 788 8300

Facsimile: (818) 788 8104

10

MELISSA S. WEINER (to be admitted *pro hac*
vice)

11

mweiner@pswlaw.com

12

PEARSON, SIMON & WARSHAW, LLP

800 LaSalle Avenue, Suite 2150

13

Minneapolis, Minnesota 55402

14

Telephone: (612) 389-0600

Facsimile: (612) 389-0610

15

ALEXANDER L. SIMON (Bar No. 305734)

16

asimon@pswplaw.com

17

PEARSON, SIMON, & WARSHAW, LLP

44 Montgomery Street, Suite 2450

18

San Francisco, California 94104

19

Telephone: (415) 433 9000

Facsimile: (415) 433 9008

20

JEFFREY KALIEL (Bar No. 238293)

21

jkaliel@kalielllc.com

22

SOPHIA GOLD (Bar No. 307971)

23

sgold@kalielllc.com

KALIEL PLLC

24

1875 Connecticut Ave. NW, 10th Floor

Washington, D.C. 20009

25

Telephone: (202) 350-4783

Facsimile: (202) 871-8180

26

Attorneys for Plaintiff

27

28